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ILLINOIS COMMERCE COMMISSION

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August 7, 2002

VIA FEDERAL EXPRESS

Ms. Donna Caton, Chief Clerk  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, Illinois 62701

Petition to Cancel  
(by letter)

02-0510

ILLINOIS  
COMMERCE COMMISSION  
Aug 8 10 57 AM '02  
CHIEF CLERK'S OFFICE

Re: Notification of the Transfer of the Assets of Telseon Carrier Services, Inc. to OnFiber Carrier Services, Inc. and Request for Cancellation of the Telecommunications Authorizations and Tariffs of Telseon Carrier Services, Inc. for the State of Illinois

Dear Ms. Caton:

OnFiber Carrier Services, Inc. ("OnFiber") and Telseon Carrier Services, Inc. ("Telseon") (together, the "Parties"), by their attorneys, hereby respectfully notify the Illinois Commerce Commission ("Commission"), *nunc pro tunc*, of the transfer of certain of Telseon's telecommunications assets in the State of Illinois to OnFiber. The immediate consummation of the transaction, as described herein, was necessary to salvage Telseon from impending collapse and potential bankruptcy. The Parties therefore did not have sufficient time to notify the Commission of the transaction prior to its completion, and now provide notice, *nunc pro tunc*. Because the transfer of the telecommunications assets of Telseon to OnFiber already has occurred, Telseon no longer will provide telecommunications services in the State of Illinois. Accordingly, Telseon hereby notifies the Commission of its abandonment of the provision of telecommunications services in the State of Illinois, and respectfully requests authority to cancel its existing telecommunications authorizations and tariffs currently on file with the Commission. This transaction is appropriate because OnFiber is authorized to provide telecommunications services in the State of Illinois, and therefore may lawfully operate the telecommunications assets it has acquired from Telseon.

The Parties emphasize that Telseon did not discontinue the provision of telecommunications services to any customer in the State of Illinois, and did not transfer any

telecommunications customer to OnFiber. Rather, Telseon's affiliate and *only* customer, Telseon IP Services, Inc., provided only unregulated Internet services to customers in Illinois, and voluntarily terminated the telecommunications services it received from Telseon prior to the consummation of the transaction described herein.

### **The Parties**

OnFiber Carrier Services, Inc. is a privately held Delaware corporation, incorporated on October 20, 1999, with its principal place of business at 11921 N. Mopac Expressway, Suite 100, Austin, Texas 78759. OnFiber is a wholly owned subsidiary of OnFiber Communications, Inc., a privately held corporation located at the same address. Through its subsidiaries, OnFiber Communications operates fiber optic networks in major metropolitan areas, delivering broadband connectivity services primarily to other carriers and Internet Service Providers ("ISPs") through SONET, Ethernet and Optical Wavelength product offerings. OnFiber currently is authorized to provide telecommunications services in 19 states, including Illinois, and in the District of Columbia. In Illinois, the Commission authorized OnFiber Carrier Services, Inc. to provide facilities-based and resold local exchange and interexchange telecommunications services on September 7, 2000, in Docket No. 00-0266.<sup>1</sup>

Telseon Carrier Services, Inc. is a privately held Delaware Corporation, incorporated on December 18, 1998, with its principal place of business at 7887 East Bellview Avenue, Englewood, Colorado 80111. Telseon is a wholly owned subsidiary of Telseon, Inc., a privately held corporation located at the same address. Through its subsidiaries, Telseon, Inc. operates fiber optic networks in major metropolitan areas, providing an extensive range of broadband and high-speed digital private line services primarily to other carriers and ISPs. Telseon currently is authorized to provide telecommunications services 18 states, including Illinois, and in the District of Columbia. In Illinois, the Commission authorized Telseon Carrier Services, Inc. to provide facilities-based and resold local exchange and interexchange telecommunications services on November 21, 2000, Docket No. 00-595.<sup>2</sup>

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<sup>1</sup> Information describing OnFiber's corporate structure, operations, management and financial qualifications was filed in its certification docket, and is incorporated herein by reference. The current corporate relationship between OnFiber and OnFiber Communications is set forth in the organizational chart attached hereto and incorporated herein by reference as *Exhibit A*.

<sup>2</sup> Information describing Telseon's corporate structure, operations, management and financial qualifications was filed in its certification docket, and is incorporated herein by reference. The current corporate relationship between Telseon and Telseon, Inc. is set forth in the organizational chart attached hereto and incorporated herein by reference as *Exhibit B*.

### **The Transaction**

By Letter Agreement dated July 25, 2002, OnFiber Communications and Telseon, Inc., Telseon Carrier Services, Inc., Telseon Carrier Services of Virginia, Inc. and Telseon IP Services, Inc. (together, the "Telseon Companies") agreed upon a transaction whereby OnFiber Communications would purchase certain of the assets and would assume certain of the liabilities of the Telseon Companies.<sup>3</sup> Pursuant to the Letter Agreement, the Parties consummated the transaction on July 31, 2002, at which time OnFiber Communications paid to the creditors of the Telseon Companies the amounts negotiated by the Telseon Companies to satisfy their debt obligations. Importantly, Telseon did not discontinue the provision of telecommunications services to any customer in the State of Illinois, and did not transfer any telecommunications customer to OnFiber as a part of the transaction. Rather, Telseon's affiliate and *only* customer, Telseon IP Services, Inc., voluntarily terminated the transport services it received from Telseon prior to the consummation of the transaction. Moreover, because the transfer of the telecommunications assets of Telseon to OnFiber already has occurred, Telseon no longer will provide telecommunications services in the State of Illinois. Accordingly, Telseon abandoned the provision of telecommunications services in the State of Illinois upon the consummation of the transaction, and hereby respectfully requests authority to cancel its existing telecommunications authorizations and tariffs currently on file with the Commission.

### **Public Interest Considerations**

The Parties respectfully submit that the transfer of the telecommunications assets of Telseon in the State of Illinois to OnFiber is in the public interest. Specifically, the transaction described herein will prevent further deterioration of the Telseon's financial condition that would otherwise render it nearly impossible for another carrier to salvage its telecommunications business. Moreover, the transaction will enable Telseon to avoid an inevitable bankruptcy filing, and thereby to preserve time, money and other valuable operating resources.

The transfer of Telseon's telecommunications assets in the State of Illinois to OnFiber also will enhance OnFiber's competitive position as an effective telecommunications provider, and will increase competition in the market for telecommunications services overall. In light of the hardships currently faced by competitive telecommunications providers in Illinois and elsewhere, it is particularly important to preserve existing competitive telecommunications

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<sup>3</sup> The Letter Agreement was amended on July 31, 2002, to include minor modifications. Although OnFiber Communications, and not OnFiber, was the actual party to the Letter Agreement, Telseon's regulated assets in the State of Illinois ultimately will be transferred to OnFiber. OnFiber will remain the entity authorized to provide telecommunications services in the State of Illinois, and therefore will remain subject to the Commission's oversight. OnFiber Communications will remain a holding company, and the parent entity of OnFiber.

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alternatives and robust local competition, with their attendant benefits of lower prices and quality innovative services.

As the Commission is undoubtedly aware, Telseon is not alone in suffering the financial difficulties that have plagued the competitive telecommunications industry. Indeed, recent bankruptcy filings by competitive telecommunications providers, including Teligent, e.spire, Winstar, ICG, NorthPoint, Network Plus, Broadview and Net2000, and an overall reduction in the consumption of telecommunications services caused by unfavorable economic conditions have eliminated a large number of new entrant competitors in market for telecommunications services. Other new entrants have reported that negative economic factors have caused them to scale back the scope of their operations or to cease offering new services entirely. However, notwithstanding these adverse circumstances in the telecommunications marketplace, OnFiber has endeavored to expand its network and current operations in a cost-effective manner, through the acquisition of the telecommunications assets of Telseon in the State of Illinois. Consequently, the transaction will enable OnFiber to enhance its competitive position in the market for telecommunications services, and to provide high quality services, at competitive rates, to customers in the State of Illinois.

### **Conclusion**

Telseon Carrier Services, Inc. hereby respectfully requests that the Illinois Commerce Commission immediately cancel its telecommunications authorizations and tariffs for the State of Illinois.

Ms. Donna Caton, Chief Clerk  
Illinois Commerce Commission  
August 7, 2002  
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Enclosed for filing with the Commission please find three (3) copies of this letter, a duplicate and a self-addressed, stamped envelope. Please date-stamp the duplicate upon receipt and return it in the envelope provided. Should you have any questions regarding this matter, or otherwise believe that further Commission action is required, please contact Brett Heather Freedson at (202) 887-1211.

Respectfully submitted,

Steve Miller /BF

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*Counsel for  
Telseon Carrier Service, Inc.*

Brett H. Freedson

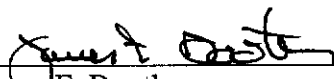
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*Counsel for  
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## VERIFICATION

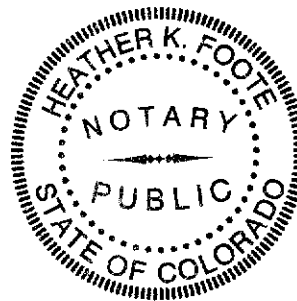
I, James F. Booth, being first duly sworn, state that I am Vice President, Legal, of OnFiber Communications, Inc. and its subsidiaries, OnFiber Carrier Services, Inc. and OnFiber Carrier Services-Virginia, Inc. (collectively, "OnFiber"); that I am authorized to make this Verification on their behalf; and that the statements in the foregoing document relating to OnFiber, except as otherwise specifically attributed, are true and correct to the best of my knowledge, information and belief.

  
James F. Booth  
Vice President, Legal

Subscribed and sworn to before me this 2nd day of August, 2002.

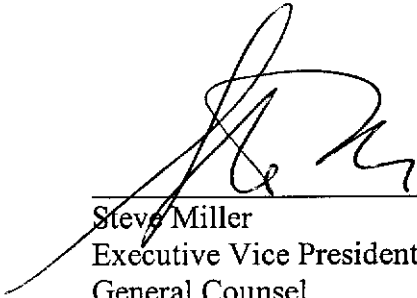
  
\_\_\_\_\_  
Notary Public

My Commission expires: June 15, 2005



## VERIFICATION

I, Steve Miller, being first duly sworn, state that I am Executive Vice President and General Counsel of Telseon, Inc. and its subsidiaries, Telseon Carrier Services, Inc. and Telseon Carrier Services of Virginia, Inc. (collectively, "Telseon"); that I am authorized to make this Verification on their behalf; and that the statements in the foregoing document relating to Telseon, except as otherwise specifically attributed, are true and correct to the best of my knowledge, information and belief.

  
Steve Miller  
Executive Vice President and  
General Counsel

Subscribed and sworn to before me this 2nd day of August, 2002.

Heather K. Foote

Notary Public

My Commission expires: June 15, 2005

